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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEVADA

ERNESTO AMADOR and LUIS  
ANGUIANO, and JUAN CARLOS  
“VICTOR” MARTINEZ as individuals, and  
on behalf of all others similarly situated

Plaintiffs,

v.

BULLY’S SPORTS BAR & GRILL, INC., a  
Nevada Corporation, and SHARLING “JO”  
SONNER, an individual.

Defendants.

Case No. 3:15-CV-00022-HDM-VPC

**JOINT CASE MANAGEMENT  
REPORT**

Date: December 9, 2016  
Time: 9:00 a.m.

This Case Management Report is filed pursuant to this Court’s Minute Order entered November 10, 2016, setting a Case Management Conference on December 9, 2016, at 9:00 a.m. and directing the parties to file a Joint Case Management Report three court days prior thereto discussing any pending discovery issues and the discovery in this case.

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1     **I. CASE STATUS:**

2             The parties have settled the claims related to 15 of the 25 Plaintiffs involved in this case.  
3     Specifically, the claims of the “salaried Cook” subclass were resolved following the Cooks’  
4     acceptance of Defendants’ Rule 68 Offer of Judgment. See, ECF No. 101 (Judgment). The parties  
5     are no longer engaged in settlement negotiations on behalf of the remainder of the Plaintiffs and are  
6     in the process of completing discovery necessary for trial and dispositive motion practice. To that  
7     end, the parties have engaged in a substantial amount of discovery since their October 14, 2016,  
8     Case Management Report (ECF No. 105). However, the parties have not been able to complete all  
9     of the discovery necessary and through this report are respectfully requesting that the close of  
10    discovery be extended for the limited purpose of conducting only the **five** discovery items noted  
11    below from December 16, 2016 to January 30, 2017. As set forth further below, the parties  
12    respectfully disagree as to whether the limited extension of discovery should also include a **sixth**  
13    item – to allow for third-party production of subpoenaed documents or for parties to take any  
14    necessary legal action to compel production of the same.  
15    necessary legal action to compel production of the same.  
16

17             As set forth herein, the parties jointly request that the discovery cut-off date be extended for  
18    the sole purpose of allowing them to complete the following discovery: (1) the continued  
19    Depositions of Plaintiffs Amador and Raudeles; (2) the depositions of Defense Witnesses Amy  
20    Mayo, Rosa Ibarra and Gregorio Hernandez (3) to allow Plaintiffs to supplement their damage  
21    calculations after being afforded a reasonable time to review supplemental time records being  
22    produced by Defendants; (4) to allow two final site inspections; and (5) to provide the parties with  
23    an opportunity to meet and confer on Plaintiffs’ pending responses to Defendants’ outstanding  
24    written discovery requests, and, if necessary, seek resolution from the Court. Excepting the one  
25    item in dispute (document subpoenas), the parties do not seek to extend the discovery cutoff for  
26    any other reason and all other discovery not otherwise noted above must be completed by  
27    any other reason and all other discovery not otherwise noted above must be completed by  
28

December 16, 2016. A list of the discovery completed in this matter since the October 14, 2016, Case Management Report is as follows:

**II. DISCOVERY COMPLETED SINCE OCTOBER 14, 2016**

**A. DEPOSITIONS:**

The parties have taken or have scheduled the following depositions to take place between October 14, 2016 and December 16, 2016.

Defendants:

- Demetrio Gonzales
- Martha Barajas
- Feliciano Ramirez

Plaintiffs:

- Matt Odegard
- Carlene Howard
- Cassandra Hayden
- Kevin Conway
- Rossa Ibarra
- Gregorio Hernandez-Santiago<sup>1</sup>

**B. SITE INSPECTIONS**

The parties completed site inspections in connection with Plaintiffs' Rule 34(a)(2) Request for Inspection on the following dates: October 25, 2016 and October 31, 2016. The Parties also scheduled an on-site inspection for December 2, 2016, but Plaintiffs' Counsel had to cancel due to

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<sup>1</sup> As set forth herein, while the depositions for Ms. Ibarra and Mr. Hernandez-Santiago were originally set by Plaintiff for December 13, 2016, it has proved difficult to coordinate the deponents' and counsels' schedules, necessitating that these depositions be moved to another date.

1 a scheduling conflict. The parties are in the process of rescheduling the site visits for the two  
2 remaining locations requested by Plaintiff.

3 C. WRITTEN DISCOVERY:

- 4 • November 8, 2016 - Defendant Bully's Supplemental Responses to Plaintiffs'  
5 Second Set of Interrogatories
- 6 • November 8, 2016 - Defendant Sonner's Supplemental Answers to Plaintiffs' First  
7 Set of Interrogatories
- 8 • November 16, 2016 - Defendants' First Set of Requests for Admission to Plaintiff  
9 Ernesto Amador
- 10 • November 16, 2016 - Defendant's First Set of Requests for Admission to Plaintiff  
11 Juan Carlos "Victor" Martinez
- 12 • November 16, 2016 - Defendants' Third Set of Requests for Production of  
13 Documents to Plaintiffs
- 14 • Defendants have also issued numerous subpoenas to third parties for which they are  
15 currently awaiting responses.

16 D. EXPERT DISCOVERY:

17 Defendants designated an Expert witness and disclosed their Expert's report on October 31,  
18 2016. The Plaintiffs have noticed the deposition of Defendants' Expert for December 7, 2016.

19 **III. ADDITIONAL DISCOVERY AGREED UPON:**

20 A. SITE VISITS

21 Plaintiffs seek to conduct on-site inspections at each of Bully's Sports Bar & Grill, Inc.  
22 ("Bully's") seven different locations. While the parties were able to coordinate site inspections at  
23 five locations, Plaintiffs have yet to be able to inspect the remaining two locations. The parties are  
24 in the process of rescheduling the site visits for these remaining locations.  
25  
26  
27  
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1           B.       WRITTEN DISCOVERY

2           1.       Defendants are in the process of supplementing responses to Plaintiffs’  
3           discovery requests for time records related to Plaintiffs and opt-in plaintiffs. Plaintiffs will require  
4           time to analyze those supplemental responses in order to provide an updated damage calculation.  
5

6           2.       Plaintiffs are currently responding to two sets of requests for admissions and  
7           one set of requests for production served by Defendants. The deadline for Plaintiffs to respond to  
8           those requests is December 16, 2016. Depending on the responses received from Plaintiffs, the  
9           parties may need to meet and confer regarding whether those responses will needed to be  
10          supplemented. The parties have already met and conferred regarding the Plaintiffs concern as to  
11          the scope of the requests for admissions and the parties have agreed that those requests are meant  
12          to be answered solely by the named Plaintiffs in their capacity as class representatives. As a result,  
13          the parties do not anticipate needing to meet and confer on that issue but may need to confer  
14          regarding the substance of the responses received by these Plaintiffs and/or any objections included  
15          with those responses. Should the parties be unable to resolve issues related to these responses,  
16          they will need to file the appropriate motion or seek appropriate resolution at the next scheduled  
17          Case Management Conference.  
18

19           B.       DEPOSITIONS

20           1.       Deposition of Amy Mayo. Ms. Mayo is the former Human Resources Director  
21          of Bully’s. Defendants have made numerous attempts to contact Ms. Mayo in regard to a  
22          declaration she executed that was produced by Plaintiffs in discovery on January 7, 2016. As  
23          Defendants have been unsuccessful in their repeated attempts to communicate with Ms. Mayo, it is  
24          now necessary to subpoena her for deposition.  
25

26           2.       Ernesto Amador. Mr. Amador is a named plaintiff in this matter. His deposition  
27          was originally commenced on October 16, 2016, and was conducted with the assistance of an  
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1 interpreter. The parties were unable to conclude the deposition, in part, because the interpreter  
2 appeared to be getting tired and was having difficulty providing a timely translation to Mr.  
3 Amador. In order to avoid issues regarding whether proceeding with the deposition would  
4 compromise the record, the parties agreed to stop the deposition and reschedule it at a mutually  
5 agreeable time.  
6

7 3. Angel A. Raudales. Mr. Raudales is an opt-in Plaintiff. His deposition was  
8 originally commenced on October 14, 2016, but the parties were unable to conclude the deposition  
9 after Plaintiffs' counsel indicated a need to file a protective order regarding a line of questions that  
10 Defendants were pursuing.

11 4. Rosa Ibarra. Ms. Ibarra. Ms. Ibarra is currently employed as an Assistant  
12 Kitchen Manager at Bully's. Plaintiffs seek to depose Mr. Ibarra regarding her employment at  
13 Bully's. It has proven difficult to coordinate a time for Ms. Ibarra deposition as a result of the  
14 Thanksgiving holiday and the other discovery being conducted since the last Case Management  
15 Conference.  
16

17 5. Gregorio Hernandez-Santiago. Mr. Hernandez-Santiago is currently  
18 employed as a Kitchen Manager at Bully's. Plaintiffs seek to depose Mr. Hernandez-Santiago  
19 regarding his employment at Bully's. It has proven difficult to coordinate a time for Ms. Ibarra  
20 deposition as a result of the Thanksgiving holiday and the other discovery being conducted since  
21 the last Case Management Conference.  
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23 **IV. ADDITIONAL DISCOVERY IN DISPUTE:**

24 1. **Defendants' View:** Defendants have subpoenaed various employment records  
25 from Plaintiffs and opt-in plaintiffs which may not be produced until after December 16, 2016, or  
26 may require legal process to compel compliance. The entities to which subpoenas were issued  
27 were identified by reviewing the deposition transcripts of the following individuals: (1) Angel  
28

1 Raudales – 10/14/15; (2) Christopher James Lessig – 10/13/15; (3) Demetrio Gonzalez – 11/2/16;  
2 (4) Ernesto Amador – 10/16/15; and (5) Juan Carlos Victor Martinez – 10/15/15. After review of  
3 these deposition transcripts, the following employers were identified as potentially being in  
4 possession of documents relevant to the employment of the afore mentioned individuals: (1)  
5 Atlantis Casino Resort & Spa; (2) Stone House Café; (3) Campo, (4) Coach's Sports Bar; (5)  
6 Applebee's; and (6) Flowing Tide Pub, Inc. Thereafter, Defendants researched the correct  
7 locations to serve each of these entities and issued subpoenas to each entity on December 6, 2016,  
8 requesting that documents be provided by December 16, 2016. The process articulated above was  
9 further complicated by the fact that the associate at Holland Hart assigned to this matter from its  
10 inception, Calder Huntington, left the firm on October 26, 2016, to take an in-house counsel  
11 position.  
12

## 13 **2. Plaintiff's View:**

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15 As will be discussed at the Case Management Conference, Plaintiffs believe  
16 Defendants have had sufficient time to request any documents needed pursuant to subpoena. The  
17 parties had not previously discussed this issue until Plaintiffs were presented with a draft of the  
18 December 9, 2016, Case Management Report of December 6, 2016.

## 19 **V. SUMMARY**

20  
21 While acknowledging a dispute as to one of the discovery items listed above, the  
22 parties submit that conclusion of the above discovery is the sole reason for their request for a  
23 limited extension of the discovery deadline in this matter. The parties realize that given the winter  
24 holidays, it will most likely prove very difficult to conclude the above referenced discovery until  
25 after the new year. For that reason, the parties respectfully request that discovery be extended by  
26 45 days.  
27  
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As a corollary to the limited discovery extension being sought, the parties also request that the current dispositive motion and proposed joint pretrial order deadlines be extended to accommodate the new proposed discovery cutoff. The parties also request the Court set a deadline for the parties to move for decertification consistent with the dispositive motion deadline. Specifically, the parties request that the Court issue an order approving the following deadlines:

	<u>Current deadline</u>	<u>Proposed Deadline</u>
<b>Discovery Cutoff for the limited items address above</b>	December 16, 2016	<b>January 30, 2017</b>
<b>Dispositive Motions</b>	January 16, 2017	<b>March 1, 2017</b>
<b>Decertification</b>	not set	<b>March 1, 2017</b>
<b>Proposed Joint Pretrial Order</b>	February 15, 2017	<b>March 31, 2017</b>

RESPECTFULLY SUBMITTED.

Dated December 6th, 2016

JONES LAW FIRM

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Dated December 6th, 2016

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